

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
NORTHERN DIVISION**

LISA R. MURPHY  
ADC #760343

PLAINTIFF

v.

1:18cv00082-KGB-JJV

PAYNE, Director, ADC; *et al.*

DEFENDANTS

**PROPOSED FINDINGS AND RECOMMENDATIONS**

**INSTRUCTIONS**

The following recommended disposition has been sent to United States District Judge Kristine G. Baker. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than fourteen (14) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the District Judge, you must, at the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence proffered at the hearing (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.

3. The details of any testimony desired to be introduced at the new hearing in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the new hearing.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing. Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court  
Eastern District of Arkansas  
600 West Capitol Avenue, Suite A149  
Little Rock, AR 72201-3325

### **DISPOSITION**

Lisa R. Murphy (“Plaintiff”) filed a *pro se* Complaint pursuant to 42 U.S.C. § 1983 (Doc. No. 2), and an Application to Proceed Without Prepayment of Fees and Affidavit (Doc. No. 1). On October 30, 2018, I denied Plaintiff’s Application because it did not include a Calculation of Initial Payment of Filing Fee sheet, prepared and signed by an authorized official of the detention center, or a certified copy of her trust fund account statement. (Doc. No. 6.) On that same date, I ordered Plaintiff to submit either the statutory filing fee of \$400.00<sup>1</sup> or a properly completed Application to Proceed Without Prepayment of Fees and Affidavit, with the required calculation sheet signed by an authorized official of the detention center at which she is confined, within thirty (30) days; Plaintiff was warned that if she did not do one or the other, this case could be dismissed without prejudice. (*Id.*) A blank Application to Proceed Without Prepayment of Fees and Affidavit and a filing fee calculation sheet were mailed to Plaintiff. The deadline has passed, and Plaintiff has not complied with or otherwise responded to my October 30, 2018 Order.

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<sup>1</sup> Effective May 1, 2013, the cost for filing a new civil case is \$400. The increase is due to a new \$50 administrative fee, which does not apply to persons granted *in forma pauperis* status under 28 U.S.C. § 1915.

Accordingly, Plaintiff's Complaint should be dismissed without prejudice. To proceed with this case, Plaintiff may file either an Application to Proceed Without Prepayment of Fees and Affidavit or the filing fee with her objections to this recommendation.

IT IS, THEREFORE, RECOMMENDED that:

1. Plaintiff's Complaint (Doc. No. 2) be DISMISSED without prejudice.
2. The Court certify, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from any Order adopting this recommendation and the accompanying Judgment would not be taken in good faith.

DATED this 4th day of December, 2018.

  
JOE J. VOLPE  
UNITED STATES MAGISTRATE JUDGE